



RESIDENTIAL RENOVATION BUILDING AGREEMENT

This Residential Renovation Building Agreement is made and entered into by and between: McNeil & Company Builders, L.L.C., (herein "McNeil") and Phil and Michelle Wood (herein "Owner").

PRELIMINARY STATEMENT

McNeil is in the business of designing and renovating residences in and near Omaha, Nebraska. McNeil and Owner have worked together to develop the plans submitted herewith for the renovation of the Owners Residence (herein "Residence") at **3435 N 140th Circle, Omaha NE 68164** (herein the "Lot"). All work is to be executed in a workmanlike manner in accordance with the Specifications, as herein after defined.

The following documents are signed by the parties and attached to this Agreement as exhibits:

- Exhibit A Cost Summary (Budget Estimate)
- Exhibit B Plans
- Exhibit C Schedule and Selection Schedule

The terms of each of these exhibits are incorporated in this Agreement by this reference. The term "Specifications" is hereby defined to mean **Exhibit A, B, and C** collectively.

WHEREFORE, McNeil and Owner have entered into this Agreement to evidence and confirm their agreements concerning the renovation of the Residence on the Lot.

ARTICLE I

CONSTRUCTION AND COMPLETION

Within thirty (30) days after the approval of Specifications and cost estimates, McNeil shall initiate work on the Residence, which shall be completed according to the plans and specifications. McNeil shall continue to work with due diligence until completion, subject to permissible delays. In the current market conditions with supply chain disruptions, McNeil is not entirely in control of the completion date of the home. McNeil shall be excused for any delay in completion of the Residence resulting from acts of God; acts or neglect of Owner or Owner's agent and independent contractors; changes in the work; labor disputes; fire; delays in transportation or delivery of materials; unavoidable casualties; and other cause beyond McNeil's control.

McNeil shall furnish all materials and perform all work necessary to complete the Residence in accordance with the Specifications. All portions of the Residence that McNeil does not perform shall be performed by subcontractors of McNeil.

ARTICLE II

COST OF RESIDENCE

The Owner shall reimburse McNeil the Cost of the Renovation of the Residence, which shall include all Costs necessarily incurred in the proper construction and equipping of the Residence pursuant to this Agreement. Such Costs shall include the items set forth below:

Wages paid for labor in the direct employ of McNeil based on a regular 40-hour week plus indirect labor Costs (to cover unemployment compensation and Social Security/Medicare, administrative costs, fringe benefits, small tools, and supplies). Any labor Cost over and above the regular 40-hour week shall be at one- and one-half times the rates shown. The Costs of such labor including indirect labor Costs, shall be as follows:

• President	\$175.00/hr
• V.P - Design	\$150.00/hr
• Sr. Estimator/Project Manager	\$115.00/hr
• Sr. Designer	\$105.00/hr
• CAD Operator/Drafting	\$75.00/hr
• Estimating/Project Engineer	\$75.00/hr
• Junior Project Engineer/Intern	\$40.00/hr
• Project Manager	\$95.00/hr
• Superintendent	\$85.00/hr
• Assistant Superintendent	\$75.00/hr
• Carpenter	\$60.00/hr
• Laborer	\$50.00/hr

All plan changes or shop drawing review of cabinets, fireplace faces, precast, steel, etc. resulting from meetings with Owner shall be billed at the above hourly rates as per the Design Agreement. Estimating and research required for modifications to the scope will be billed at the above hourly rates.

Costs of materials, supplies, and equipment incorporated into the Residence, including Costs of transportation thereof as contained in invoices presented to Owner. McNeil shall make reasonable efforts to advise the owner of estimated costs of such materials, supplies, and equipment prior to incurring same. Payments made by McNeil to subcontractors for work performed and materials supplied pursuant to this Agreement as contained in invoices presented to Owner. Costs, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers, which are consumed in the performance of this Agreement, and Cost less salvage value of such items used but not consumed which remain the property of McNeil.

Costs of any grading, landscaping, sod, planting, and exterior improvements on the Residence site as billed to McNeil.

Rental charges of all necessary machinery, vehicles, and equipment, exclusive of hand tools, used at the site of the Residence, whether rented from McNeil or others, including installation, minor repairs and replacements, dismantling, removal, transportation, and other operating Costs thereof, at charges consistent with those prevailing in the area and as billed to McNeil.

Costs of premiums for all bonds and insurance which McNeil is required to purchase and maintain by the Specifications or this Agreement as billed to McNeil.

Sales, use, or similar taxes imposed by any governmental authority relating to the Agreement and for which McNeil is liable.

All license, permit and governmental fees, and deposits.

Losses and expenses not covered by insurance or otherwise, sustained by McNeil in connection with the Residence, provided such losses have resulted from causes other than the fault or neglect of McNeil.

Cost of removal of debris as billed to McNeil.

Cost incurred due to an emergency affecting the safety of persons and property that have resulted from causes other than the fault or neglect of McNeil or any subcontractor of McNeil.

Other Costs incurred in the performance of the Agreement, if and to the extent approved by the Owner in writing.

Warranty work for the first year after completion will be completed by McNeil Company. A warranty fee of .6% of monthly costs net of McNeil's Fee will be billed during the construction period. Items which are backordered, not installed or which are incomplete punch list items will not be considered warranty items.

The term "Cost of Residence" shall not include salaries or compensation of McNeil's accounting, office or management personnel at McNeil's principal office and any overhead or general expenses of any kind (except as expressly included above); cost due to the negligence of McNeil, any subcontractor, or anyone employed by any of them, or for whose acts any of them may be liable, including but not limited to correction of defective or nonconforming work; disposal of materials and equipment wrongly supplied; making good any damage to property; or sums previously paid by Owner.

McNeil will attempt (when reasonably possible) to advise and obtain approval from Owner of estimated Costs for materials, supplies, equipment incorporated into the Residence, in the event the Cost of any of the foregoing is estimated to exceed the approved budget by 10%, as set out in the Project Cost Summary.

ARTICLE III

MCNEIL'S FEE

The Owner agrees to pay to McNeil, in addition to reimbursement of the Cost of Residence, McNeil's Renovation Fee (for overhead and markup) in the total amount of Eighteen percent (McNeil standard renovation fee of 20% less a 2% client discount = 18%) of the Cost of the Renovation of the Residence. The Cost of Renovation of the Residence and Fee (excluding pending items) is estimated in the Project Cost Summary at an approximate total of **One Million Four Hundred Fifty-Nine Thousand Nine Hundred Twenty-Three & 00/100 (\$1,459,923.00) Dollars.**

ARTICLE IV

CHANGES IN THE RESIDENCE

The Owner may make changes in the Renovation and in the Specifications. McNeil shall be reimbursed for changes in the Residence on the basis of adjustments to the Cost of the Renovation of the Residence, as defined in Article III, including additional billable hourly rates for purposes of estimating and research into products and methods required for the requested change. McNeil's Fee shall be adjusted in respect of the changes in the Residence, as a percentage of the change to the Cost of the Residence, as provided in Article IV.

ARTICLE V

PAYMENTS

Concurrent with the execution of this Agreement, Owner shall pay to McNeil the sum of **Ninety Thousand & 00/100 (\$90,000.00) Dollars**, which is approximately 6% of the estimated cost of construction. This construction deposit shall be applied against the final payment due from Owner.

McNeil shall from time to time, but no more frequently than monthly, provide Owner with a report of all monies paid out and Costs incurred on account of the Cost of the Residence since the previous report, for which McNeil is entitled to be reimbursed under Article III and to be paid McNeil's Fee under Article IV. Within ten (10) days after delivery of such report, the Owner shall reimburse to McNeil the amount of the Cost of the Residence paid by McNeil to date, and also pay McNeil's Fee due in respect of such Cost of the Residence less the amounts of all construction liens of which Owner has received notice. Payments due and unpaid after 10 days under the Specifications shall bear interest from the date payment are due at a rate of 1.5% per month. McNeil shall provide general lien waivers equal to the amount of all previous payments to McNeil Company before McNeil is entitled to a payment for the current month.

Final payment less the construction deposit shall be estimated and will be due at the time of the final walk through and before Owner takes possession of the residence. Any variance from the estimate shall be reconciled and settled within 30 days after substantial completion of the Project.

ARTICLE VI

PERMITS, FEES AND NOTICES

McNeil shall secure all permits, government fees and license fees necessary for the proper execution and completion of the Residence.

ARTICLE VII

INSURANCE

McNeil will purchase and maintain insurance which will protect it and Owner from claims which may arise out of, or as a result of McNeil's operations under the Contract whether such operations be by it or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for such other claims as may be reasonably required by Owner's lender. Such insurance shall cover claims for damages because of bodily injury, personal injury, or property damage, and shall be written with limits of not less than \$500,000.00 for bodily injury or personal injury, and \$1,000,000.00 for property damage. McNeil shall indemnify and hold harmless Owner from any claim, liability, judgment, or expense which may arise out of or result from McNeil's operations under the Agreement. Upon request of Owner, Owner shall be named an additional insured on all such policies.

McNeil shall purchase and maintain builder's risk insurance upon the entire Residence at the site to the full insurable contract value thereof. This insurance shall include the interest of the Owner, McNeil and subcontractors in the Residence and shall insure against perils of fire, extended coverage, vandalism, and malicious mischief, and for such other claims and risks as may be reasonably be required by Owner's lender. Any insured loss is to be adjusted with McNeil and made payable to McNeil as trustee for the insured, as their interest may appear. Upon request of Owner, Owner and any mortgagee of Owner shall be named as an additional insured on such insurance. The Owner and McNeil waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided by the Owner or McNeil, except for such rights as they may have in and to the proceeds of such insurance. Owner is responsible for notifying their insurance provider about the renovation project and agrees to maintain their homeowner's insurance coverage to protect the existing Residence. In the event of an overlap in coverage, the parties agree to work together to resolve any claims in accordance with the terms of their respective policies.

ARTICLE VIII

SUPERVISION OF WORK

Owner agrees that the direction and supervision of the workers at the Residence, including sub-contractors, rests exclusively with McNeil. Owner and his agent agree not to issue any instructions to, or otherwise interfere with the workers. The Owner, or his agent, shall at all reasonable times during working hours have the right to inspect the work. McNeil shall not be responsible for any injury to the Owner, family, agents, or any guests of the Owner, during said inspections. The Owner agrees not to negotiate for additional work with the sub-contractors or to engage other builders or sub-contractors to work at the Lot or on the Residence, except with McNeil's prior consent. Owner shall have the right to employ an agent at Owners cost to inspect the construction of the Residence and to reject materials and work which do not reasonably conform or comply with the Specifications.

ARTICLE IX

CLEANUP

McNeil shall keep the Residence and site free from unreasonable accumulations of waste materials and rubbish. At the completion of the work, McNeil shall remove from the Lot all rubbish, implements and surplus materials and leave the Residence clean and ready for occupancy. All excess materials left after completion of Contract shall remain the property of the Owner.

ARTICLE X

UNFORSEEN BUILDING CONDITIONS

Owner agrees to pay the Cost of additional work and materials made necessary by unforeseen building conditions encountered at the Residence or Lot in connection with the renovation of the residence, both during and after construction is completed.

ARTICLE XI

POSSESSION AND OCCUPANCY

The Owner shall not occupy any area within the Residence during the renovation period. McNeil is to be held harmless by the Owner for any loss or damage to any personal property stored within the Residence during the renovation period.

ARTICLE XII

DUST AND DEBRIS DURING CONSTRUCTION

The Owner understands and acknowledges that during construction, dust, debris, and noise are an inevitable part of the renovation process. McNeil will take reasonable precautions to minimize the spread of dust and debris including the use of dust barriers, and cleaning at the end of the workday. However, it is understood that complete containment is not always possible, and the migration of dust may occur outside the designated work areas. The Owner agrees to take appropriate measures such as covering personal items and/or relocating items. McNeil will make efforts to minimize disruption, but it will likely be necessary for Owner to clean areas of the residence beyond the immediate work area.

ARTICLE XIII

WORKMANSHIP AND WARRANTY

All workmanship shall conform to the guidelines set forth in the NAHB (National Association of Homebuilders) publication *Residential Construction Performance Guidelines for Professional Builders and Remodelers (4th Edition)* and standard industry practices. McNeil will correct any defects (repair or replace) as defined in the NAHB publication for a period of one year from the date of substantial completion. McNeil does not assume responsibility for any secondary damage to personal property. In the case of any manufactured products, the acceptable tolerances, standards, and warranty shall be established by the manufacturer. This warranty excludes:

- Defects caused by any design, work, or materials which were not initially provided by Builder.
- Any defects caused by negligence, improper maintenance, or improper operation by the owner.
- Any damage caused by abnormal temperatures or weather conditions.
- Normal wear and tear, insect or rodent damage, vandalism, storms, or other Acts of God.

McNeil makes no representations, warranties, or guarantees as to the quality, suitability, performance, or code-compliance of the pre-existing work. McNeil shall not be responsible or liable for defects, failures, settlement, cracking, or other performance issues arising from the pre-existing work. If any additional work is required to correct or accommodate issues with the pre-existing work, such work shall be treated as a change order and billed in accordance with Article II.

ARTICLE XIV

DEFAULT

If the Owner unreasonably defaults, McNeil shall be entitled to terminate the Agreement and recover from Owner payment for all work executed; loss on any materials, equipment, tools, construction equipment and machinery already ordered; other direct damages; and lost fee in the amount of Fifteen percent (15%) of the estimated total costs of construction.

ARTICLE XV

BIOLOGICAL IMPURITIES

Modern homes are built tightly to slow the escape of warm air in the winter and the escape of cool air in the summer. The tight construction also helps reduce the entrance into the home of certain naturally occurring, organic, sometimes airborne, and often invisible contaminants such as (without limitation) animal dander, dust, dust mites, fungi, mold, bacteria, and pollen (collectively "Biological Impurities"). By the same token, Biological Impurities brought into the home (through the natural circulation of air generated by or carried in upon people or things, including building materials) can become trapped and allowed to grow in the home unless they are actively removed. Inside the home, Biological Impurities can cause allergies or other more serious health effects. According to some experts, Biological Impurities cannot be completely eliminated or excluded from residential construction such as the Property. Even so, routine Client maintenance such as regular cleaning, dust control and moisture control may reduce the levels of Biological Impurities inside the home. Many products are available on the market – from common household cleaning products available in supermarkets to air or other filters manufactured and sold by third parties – to purchase (or not) at Client's sole preference. Such maintenance, identification and/or remediation of Biological Impurities is Client's responsibility. McNeil does not claim any expertise regarding the

identification, remediation, or possible health consequences of Biological Impurities; if Client would like more information, Client should contact the U.S. Environmental Protection Agency, state or local authorities. McNeil has not made, created, or invited (nor do they intend to make, create, or invite) any warranty or any other expectancy, either express or implied, in regard to any such Biological Impurities. Client agrees that McNeil shall not be liable for any damages (whether actual, special, incidental, or consequential) or for any injury (including, but not limited to, any personal injury) based upon any legal theory whatsoever arising out of or relating to Biological Impurities at the Property. Accordingly, Client (for itself and for its joint and several agents, heirs, successors, executors, subrogees, attorneys and assigns) releases McNeil and all other persons and entities (collectively, the "Releasees") of and from any and all present and future claims, demands, causes of action and damages, of whatever kind or nature (including, but not limited to, any claim for personal injury,) that arises out of or in any way relates to the presence of Biological Impurities at the Property. To the maximum extent allowed by law Client hereby waives all claims to the contrary.

ARTICLE XVI

ARBITRATION

All claims, disputes and other matters in question arising out of this Agreement or the claimed breach thereof shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association unless the parties mutually agree otherwise. This agreement to arbitrate shall be specifically enforceable under arbitration law. Any award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE XVII

COST ESCALATIONS & TARIFFS

The Construction price set forth in this Residential Building Agreement has been determined using the best available data for material prices effective the date of this contract. In the event of a substantial change in prices (due to market cost escalation, tariffs, and supply chain instability) between the date of this agreement and the date of commencement of the item of work (framing, drywall, etc.), McNeil may increase (or decrease) the overall construction price based on the resulting increase or decrease in the cost of materials utilized in the construction of the residence. McNeil shall give Owner notice of such price changes within sixty days after commencement of that phase of work.

ARTICLE XVIII

ENTIRE AGREEMENT

The parties specifically agree that this Agreement shall supersede any and all other prior agreements or contracts which the parties may have entered into regarding the construction of the Residence. This Residential Building Agreement shall constitute the entire agreement between the parties with regard to the construction of the Residence. This Agreement shall be binding on the parties and their respective successors, assigns, heirs, and devisees.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Dated: _____

Phil Wood

Dated: _____

Michelle Wood

Dated: _____

Patrick Kirby, President
McNeil & Company Builders, L.L.C.
Builder/Contractor